

ORIGINAL



0000048029

03

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

In the matter of:

Mid America Energy, Inc.,
a Nevada Corporation
129 Haven Street, Unit A
Hendersonville, TN 37075

Mid America Oil & Gas
a Tennessee Limited Liability Company
2023 Earl Pearce Cir.
Mount Juliet, TN 37122-1328

Gary M. Milby a/k/a
Gary Moss Milby a/k/a
Gary M. Milley
And Jane Doe Milby,
husband and wife
129 Haven Street, Unit A
Hendersonville, TN 37075

Jim and Jane Doe Whatcott,
husband and wife,
129 Haven Street, Unit A
Hendersonville, TN 37075

John and Jane Doe Blitz,
husband and wife,
129 Haven Street, Unit A
Hendersonville, TN 37075

Respondents.

Docket No. S.20442A-06-0110

**ANSWER TO TEMPORARY
ORDER TO CEASE AND DESIST
BY
DEFENDANTS JIM
WHATCOTT, RITA
WHATCOTT, JOHN BLITZ,
AND LUCILLE BLITZ**

AZ CORP COMMISSION
DOCUMENT CONTROL

2006 APR 20 P 1:41

RECEIVED

1 Respondents Jim and Rita Whatcott and John and Lucille Blitz (collectively
2 "Respondents") respond to the allegations of the Temporary Order to Cease and Desist
3 (the "Order") as follows:

4 1. In response to paragraph 1 of the Order, Respondents admit that the
5 Arizona Corporation Commission ("ACC") has subject matter jurisdiction over the
6 claims in the Order. Respondents deny that the ACC has personal jurisdiction over them.
7 Respondents specifically preserve their objections to the assertion of personal jurisdiction
8 over them, and do not waive their objections to the assertion of personal jurisdiction by
9 filing this answer or appearing through counsel at the April 20 hearing.

10 2. Upon information and belief, Respondents admit the allegations of
11 paragraph 2 of the Order.

12 3. Upon information and belief, in response to paragraph 3 of the Order,
13 Respondents aver that Mid America Oil & Gas, LLC ("MAOG") is a Kentucky limited
14 liability company with its principal place of business at 493 Pleasant Run Church Road,
15 Campbellsville, Kentucky 42718.

16 4. Upon information and belief, in response to paragraph 4 of the Order,
17 Respondents admit that MAOG previously owned a website at the "Website" as defined
18 in that paragraph.

19 5. Upon information and belief, in response to paragraph 5 of the Order,
20 Respondents admit that Mid America Energy, Inc. ("MAE") is a company engaged in
21 development drilling in several locations in Kentucky and that the Website contained
22 information relating to drilling locations in Kentucky and ownership interests in wells.
23 Respondents lack sufficient information or knowledge to admit or deny the remaining
24 allegations of paragraph 5, and therefore deny the same.

25 6. Respondents lack sufficient information or knowledge to admit or deny the
26 allegations of paragraph 6, and therefore deny the same.

1 7. Upon information and belief, Respondents admit that Milby is President of
2 MAE and President and owner of MAOG.

3 8. The allegations of paragraph 8 are not directed to Respondents, and
4 therefore no response is required. To the extent a response is deemed appropriate and/or
5 required, Respondents lack information or knowledge sufficient to admit or deny the
6 allegations of that paragraph, and therefore deny the same.

7 9. The allegations of paragraph 9 are not directed to Respondents, and
8 therefore no response is required. To the extent a response is deemed appropriate and/or
9 required, Respondents lack information or knowledge sufficient to admit or deny the
10 allegations of that paragraph, and therefore deny the same.

11 10. In response to paragraph 10 of the Order, Respondents admit that Jim
12 Whatcott's ("Whatcott") address is 222 Basin Creek Road, Durango, Colorado 81303-
13 3647. Respondents deny the remaining allegations of paragraph 10.

14 11. In response to paragraph 11 of the Order, Respondents admit that Whatcott
15 is married to Rita Whatcott.

16 12. In response to paragraph 12 of the Order, Respondents aver that Whatcott's
17 activities with respect to MAE and MAOG were for the benefit of his marital community.
18 Respondents deny the remaining allegations of paragraph 12.

19 13. In response to paragraph 13 of the Order, Respondents admit that John
20 Blitz ("Blitz") is an individual. Respondents deny the remaining allegations of paragraph
21 13.

22 14. In response to paragraph 14 of the Order, Respondents admit that Blitz is
23 married to Lucille Blitz.

24 15. In response to paragraph 15 of the Order, Respondents admit that the Order
25 uses the references set forth therein.
26

1 16. In response to paragraph 16 of the Order, Respondents admit that MAE has
2 offered for sale limited partnership interests in limited partnerships in oil and gas
3 opportunities.

4 17. In response to paragraph 17 of the Order, Respondents admit that Whatcott
5 placed an advertisement in the Arizona Republic beginning in late November 2005.
6 Respondents lack sufficient knowledge or information as to whether the advertisement
7 contained the quoted language set forth in paragraph 17. Respondents lack sufficient
8 knowledge or information to form a reasonable belief with respect to the dates on which,
9 or number of times, that the advertisement ran. Respondents deny that they are currently
10 soliciting Arizona investors through newspaper advertisements.

11 18. In response to paragraph 18 of the Order, Respondents admit that Fort
12 Knox #15 is an oil program for the drilling and completion of 3 oil wells in Adair
13 County, Kentucky. Respondents admit that Whatcott spoke with at least one potential
14 investor in Arizona about Fort Knox #15 and explained that there were limited
15 partnership investments available for that investment opportunity. Respondents admit
16 that Whatcott referred the potential investor to www.mid-americaoilandgas.com and
17 arranged to mail the potential investor materials relating to Fort Knox #15. Respondents
18 deny the remaining allegations of paragraph 18.

19 19. In response to paragraph 19 of the Order, Respondents admit that Whatcott
20 explained that each investor in Fort Knox #15 would have an interest in all three wells
21 that would be drilled, which would increase the likelihood that each investor would
22 realize a good return. Respondents admit that Whatcott said that a \$37,000 investment
23 would provide the investor with a 2% net revenue interest in the 3 oil wells. Respondents
24 deny the remaining allegations of paragraph 19.

25 20. In response to paragraph 20 of the Order, Respondents admit that Whatcott
26 informed an Arizona potential investor that similar investments in similar oil wells were

1 seeing a return in the range of \$3,000 to \$6,000 per month on a single investment.

2 Respondents aver that Whatcott informed the potential investor in Arizona that it
3 generally takes 60 to 90 days to commence drilling on the wells although factors can
4 change that time period. Respondents deny the remaining allegations of paragraph 20.

5 21. In response to paragraph 21 of the Order, Respondents admit that Whatcott
6 explained that the investment would be in developmental drilling and that the drilling
7 would be done near to existing producing wells that were drilling in existing oil and gas
8 reserves. Respondents admit that Whatcott stated that there were 90 wells currently up
9 and running and that MAE intended to sell a total of approximately 200 programs (or 600
10 wells) on this particular property. Respondents deny the remaining allegations of
11 paragraph 21.

12 22. In response to paragraph 22 of the Order, Respondents admit that MAE has
13 a brochure that references MAE, MAOG, and Milby and that the brochure was sent to at
14 least one Arizona potential investor. Respondents admit that the brochure explains
15 MAE's "guarantee" that "should any of the three wells come up dry, a new one will be
16 drilled at company expense" and that Whatcott explained this "guarantee" to at least one
17 potential Arizona investor. Respondents deny the remaining allegations of paragraph 22.

18 23. In response to paragraph 23 of the Order, Respondents admit that the
19 Private Placement Memorandum for Fort Knox #15 ("PPM") states that the partnership is
20 offering a total of twenty-five units of general partner interest for a subscription price of
21 \$37,000 each for a total offering price of \$925,000. Respondents admit that the money
22 for Fort Knox #15 was to be raised from a number of different individual investments.
23 Respondents admit that the PPM states that the unit holders for the partnership "will
24 acquire a fifty percent {50.0%} Net Revenue Interest representing sixty one point five
25 three eight five percent {61.5385%} of the Working Interest in the three [3] New Wells."
26

1 24. In response to paragraph 24 of the Order, Respondents admit that the PPM
2 states that Fort Knox Oil #15, LLP is a Tennessee Limited Liability Partnership.
3 However, Respondents affirmatively state that, at page 1 of the Summary, the PPM
4 discloses that Fort Knox Oil #15, LLP "is a Limited Liability Partnership to be organized
5 under the laws of the State of Tennessee." Respondents lack information or knowledge
6 sufficient to admit or deny the remaining allegations of paragraph 24, and therefore deny
7 the same.

8 25. Upon information and belief, in response to paragraph 25 of the Order,
9 Respondents admit that Fort Knox Oil #15 was to be formed to drill and, if successful, to
10 complete and to operate three New Wells. Respondents deny the remaining allegations
11 of paragraph 25.

12 26. In response to paragraph 26 of the Order, Respondents deny the allegations
13 set forth therein.

14 27. In response to paragraph 27 of the Order, Respondents admit that a letter
15 from Milby that is included in an information packet about Fort Knox Oil #15 states "I
16 encourage you to visit the field operations." Respondents admit that the limited partners
17 do not participate in the management of the company. Respondents deny that the quoted
18 language in paragraph 27 of the Order accurately states the language of the PPM in that
19 the quote omits certain words within the quoted text. Respondents deny the remaining
20 allegations of paragraph 27.

21 28. In response to paragraph 28 of the Order, Respondents admit that the PPM
22 identifies MAE as the Managing Partner and Program Manager of Fort Knox #15.
23 Respondents lack sufficient knowledge or information to form a reasonable belief as to
24 the truth of the remaining allegations of paragraph 28 and, therefore, deny the same.

1 29. In response to paragraph 29 of the Order, Respondents admit that MAOG
2 had a website online on January 30, 2006. Respondents deny the remaining allegations
3 of paragraph 29.

4 30. In response to paragraph 30 of the Order, Respondents lack sufficient
5 knowledge or information sufficient to admit or deny the allegations of that paragraph,
6 and therefore deny the same.

7 31. In response to paragraph 31 of the Order, Respondents lack sufficient
8 knowledge or information to admit or deny whether the quoted language appeared on the
9 website on any given date. Upon information and belief, Respondents admit that, on or
10 about January 30, 2006, the website permitted users to send contact information to the
11 company in order to receive information regarding then-current oil and drilling projects.

12 32. In response to paragraph 32 of the Order, Respondents lack sufficient
13 knowledge or information to admit or deny the allegations of that paragraph, and
14 therefore deny the same.

15 33. The allegations of paragraph 33 are not directed to Respondents, and
16 therefore no response is required. To the extent a response is deemed appropriate and/or
17 required, Respondents lack information or knowledge sufficient to admit or deny the
18 allegations of that paragraph, and therefore deny the same.

19 34. In response to paragraph 34 of the Order, Respondents lack sufficient
20 knowledge or information in order to admit or deny the allegations of that paragraph, and
21 therefore deny the same.

22 35. In response to paragraph 35 of the Order, Respondents admit that Blitz
23 arranged through an advertising agency for the placement of ads, which resulted in an ad
24 running in the Arizona Republic in early February 2006. Respondents lack sufficient
25 knowledge or information to form a reasonable belief as to the truth of the remaining
26 allegations of paragraph 35 and, therefore, deny the same.

1 36. In response to paragraph 36 of the Order, Respondents admit that Blitz
2 called an Arizona potential investor who had responded to an advertisement and that
3 Blitz indicated that MAE was operated by Milby and offered a 2% net revenue interest in
4 three oil wells for \$49,000 in an area called the "Knox Formation." Respondents deny
5 the remaining allegation of paragraph 36.

6 37. In response to paragraph 37 of the Order, Respondents deny the allegations
7 set forth therein.

8 38. Respondents lack sufficient knowledge or information to admit or deny the
9 allegations of paragraph 38, and therefore deny the same.

10 39. In response to paragraph 39 of the Order, Respondents admit that a Private
11 Placement Memorandum for Eagle Oil #6 ("PPM2") was sent to an Arizona potential
12 investor on or about February 27, 2006. Respondents admit that the PPM2 identifies
13 MAE as the Managing Partner and Program Manager for Eagle Oil #5, LLP and
14 identifies Milby as the President of MAE. Respondents deny the remaining allegations of
15 paragraph 39.

16 40. In response to paragraph 40, Respondents lack sufficient knowledge or
17 information to admit or deny the allegations of that paragraph, and therefore deny the
18 same.

19 41. In response to paragraph 41 of the Order, Respondents lack knowledge or
20 information sufficient to admit or deny the allegations that paragraph, and therefore deny
21 the same. Respondents aver that they were not aware of the potential existence of an
22 order from the Pennsylvania Securities Commission until they received the Order in this
23 action.

24 42. In response to paragraph 42 of the Order, Respondents deny the allegations
25 set forth therein.
26

1 43. In response to paragraph 43 of the Order, Respondents lack information and
2 knowledge sufficient to admit or deny the allegations of that paragraph, and therefore
3 deny the same.

4 44. In response to paragraph 44 of the Order, Respondents state that the
5 allegation of that paragraph is a conclusion of law and not a statement of fact and,
6 therefore, requires no response by Defendants. Further, Respondents deny the allegations
7 of paragraph 44.

8 45. In response to paragraph 45 of the Order, Respondents deny the allegations
9 set forth therein.

10 46. In response to paragraph 46 of the Order, Respondents state that the
11 allegation of that paragraph is a conclusion of law and not a statement of fact and,
12 therefore, requires no response by Defendants. Further, Respondents deny the allegations
13 of paragraph 46.

14 47. In response to paragraph 47 of the Order, Respondents deny the allegations
15 set forth therein.

16 48. In response to paragraph 48 of the Order, Respondents state that the
17 allegation of that paragraph is a conclusion of law and not a statement of fact and,
18 therefore, requires no response by Defendants. Further, Respondents deny the allegations
19 of paragraph 48.

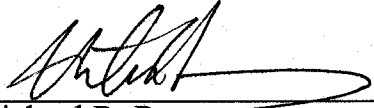
20 49. Respondents deny any allegation of the Order that they have not
21 specifically admitted herein.

22 WHEREFORE, Respondents request that the Commission quash the Order and
23 dismiss these proceedings.

1 DATED this 20th day of April, 2006.

2 GALLAGHER & KENNEDY, P.A.

3
4 By


Michael R. Ross
2575 East Camelback Road
Phoenix, Arizona 85016-9225
Attorneys for Defendants Jim Whatcott and
John Doe Blitz,


5
6
7
8 ORIGINAL and 12 COPIES filed and
9 COPIES hand-delivered this 20th day of
April 2006, to:

10 The Honorable Marc E. Stern
11 Administrative Law Judge
12 Arizona Corporation Commission
13 1200 West Washington Street
Phoenix, Arizona 85007

14 Shoshana O. Epstein, Esq.
15 Staff Attorney
16 Arizona Corporation Commission
17 1200 West Washington Street
Phoenix, Arizona 85007

18 Paul L. Stoller
19 Bivens & Nore PA
20 3003 North Central Ave., Suite 1200
Phoenix, Arizona 85012

21 Matthew J. Neubert
22 Director of Securities
23 Arizona Corporation Commission
1300 West Washington Street
3rd Floor
Phoenix, Arizona 85007

24
25 
26 1357040